

## **Requesting a Hearing**

### **What if I disagree with the Department of Labor's Notice of Determination?**

If you disagree with the Notice of Determination you may request a hearing.

### **What is a Hearing?**

The hearing is conducted by an Administrative Law Judge (ALJ) who is neutral. At the hearing the claimant and the employer may give testimony and present documents in support of their positions. Sometimes, a representative from the Department of Labor will be at the hearing.

### **How do I ask for a hearing if I am a Claimant?**

1. To request a hearing online, go to <https://labor.ny.gov/signin> and sign in to your NY.Gov account. Choose "Go to My Online Forms." Under the "Forms Available for Filing" menu on the left, choose the "Claimant Request for Hearing" form. Please fill out the form completely and submit it.
2. You may also request a hearing by mail or fax. Submit a [Claimant Request for a Hearing](#) form which can be found in the back of the claimant handbook. You may also write a letter including your first and last name and the last four digits of your Social Security Number to the address below:

NYS Department of Labor  
P.O. Box 15131  
Albany, NY 12212-5131

Or fax to: 518-457-9378

### **How do I ask for a hearing if I am an Employer?**

Submit your request for a hearing to Unemployment Insurance Division, PO Box 15131, Albany, NY 12212-5131. "Employer Request for Hearing" forms are available online at <https://labor.ny.gov/ui/aso/hearing2.shtm>.

You are required to provide a detailed explanation of the events which you believe are the grounds for denying benefits to the claimant.

### **Is there a deadline for requesting a hearing?**

A request for a hearing must be postmarked, faxed, or sent electronically within 30 days of the date printed on the initial determination. It is important to make a timely hearing request, or you may lose the opportunity to have a hearing about the facts of your case.

## **How can I speak with someone to ask questions about the hearing process or a document I received?**

If you are a claimant, contact the [Unemployment Insurance Claimant Advocate Office](#) Monday through Friday 9 am to 4PM:

Call toll free: 855-528-5618

Secure Message: Log in at <https://labor.ny.gov/signin> . Select the envelope icon. On the next page, select the menu button beside “Message Inbox” and choose “Compose New.” Select “Claimant Advocate Office” for the subject line.

\*Staff at the Claimant Advocate’s Office are not lawyers and cannot represent you at a hearing. If you cannot afford to pay an attorney or a registered representative, you may be able to get free representation from a pro bono attorney or your local Legal Aid Society or legal services program. For a list of legal resources, including attorneys, registered representatives, legal services programs and pro bono attorneys’ organizations, go to the Unemployment Insurance Appeal Board website at [www.uiappeals.ny.gov](http://www.uiappeals.ny.gov). Click on the “Resources” tab and then click on “List of Attorneys & Authorized Agents.” You may also request this list by calling (833) 910-4382.

## **What if I get another Notice of Determination after I have asked for a hearing?**

If you receive a new Notice of Determination after you asked for a hearing, read the instructions provided on the notice carefully. You may be required to make a new hearing request on any additional determinations you disagree with. Follow the instructions on the Notice of Determination about when and how to ask for a hearing.

## **Can an Employer Stop My Request?**

What if any former employer tries to prevent me from asking for a hearing or an appeal?

According to the Labor Law, no one has the right to interfere with your claim for benefits. To file a complaint, call 888-4-NYSDOL and choose the option for Labor Standards or ask to be connected to the Labor Standards Division.

## **Can I request my hearing for a certain day or time?**

Hearings are scheduled Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. (EST). You cannot request a specific day or time. If there is a specific date or time that you are unavailable for a hearing, you should include this information in your request for a hearing with an explanation of why you are unavailable.

**How soon after I make my request will the hearing take place?**

Hearings are generally scheduled two weeks after the Appeal Board receives the hearing file from the Department of Labor. Hearings are generally held within 30 days after you make the request. Currently, all hearings are held by telephone.

**Should I continue to certify for benefits while waiting for the hearing?**

Yes. You should continue to certify weekly as long as you are unemployed and seeking benefits, both before and after the hearing, or if you appeal to the Appeal Board or to the Court. If you fail to certify you could lose your benefits. You should follow all instructions you receive from the Unemployment Insurance Office.

**Who is the Administrative Law Judge (ALJ)?**

The ALJ is a neutral decision-maker on the staff of the Unemployment Insurance Appeal Board and is independent of the Telephone Claims Center (TCC) and the Department of Labor.

**What role does the ALJ play at the hearing?**

The ALJ can sustain (agree), overrule (disagree) or modify (change) the Notice of Determination. The ALJ will conduct the hearing by asking questions of the parties and their witnesses (who must swear or affirm to tell the truth) and by accepting documents into evidence. The ALJ will review the testimony and evidence presented at the hearing and make a decision, in writing, about whether the claimant is entitled to benefits. In some cases, the ALJ decides whether a claimant worked as an employee or independent contractor and whether a business is liable as an employer for contributions to the unemployment insurance fund. For more information see below under 'AT THE HEARING, what happens at the hearing?'

**May I contact the ALJ before or after the hearing?**

The ALJ is not permitted to speak to a party before or after the hearing. You may speak to staff in the hearing office if you have questions about the hearing date, the hearing procedure, or want to request a postponement. The staff at the hearing office may not provide you with advice about your case or tell you whether you should or should not be represented at the hearing. You may contact the Claimant Advocate Office for any other questions you have about your case prior to the hearing.

## **Special Need or Accommodation**

### **What if I need an interpreter or a special need accommodation?**

If you or your witness have limited skills in the English language you may request interpretation services to assist you during the hearing. Contact the hearing office on the Notice of Hearing prior to the hearing. An interpreter will be provided at no charge. Language services may be provided for any spoken language or sign language.

If you or your witnesses have a disability of any kind, arrangements will be made to make sure all parties can participate in the hearing. You should notify the hearing office listed on the top of the Notice of Hearing to inform them of any special needs that you have.

## **Notice of Hearing**

### **How will I be notified of a hearing?**

A hearing notice will be mailed to all involved parties and their representatives at least 14 days in advance of the scheduled hearing.

### **Read the Notice of Hearing carefully.**

The Notice of Hearing will have the following important information:

- ALJ Case Number(s)
- Names and addresses of all parties who will be attending the hearing
- The telephone numbers at which each party will be called
- The Date and Time of the hearing
- The Purpose of the Hearing
- Special Instructions

Read the Special Instructions carefully. They will advise you to produce documents or witnesses at the hearing. If you are unable to produce these documents or witnesses at the hearing, be prepared to explain why you were unable to produce them. Special Instructions may appear on the front or reverse sides of the Notice of Hearing.

The Notice of Hearing will be accompanied by the hearing file containing documents which may be used at the hearing. (See the section, "Hearing Case File," below.) It is very important that you have these documents with you when the ALJ telephones you for the hearing.

### **What if my phone number is different than what is listed on my hearing notice?**

Call the hearing office as soon as possible to update your telephone number. The hearing office phone number is listed on the top of the Notice of Hearing.

### **Can I attend in person at the Hearing Site?**

No. Currently, the Hearing Sites are closed to the public and all hearings are held by telephone.

## **Preparing for the Hearing**

### **Video about hearings**

Watch the [hearing preparation video](#) on “How to Prepare for a Hearing.” The video is subtitled in English, Italian, Spanish, Haitian Creole, Chinese, Russian, Korean, Polish, and Bengali.

### **Do I Need an Attorney?**

Do I need an attorney to represent me at the hearing?

You have the right to contact an attorney or registered representative to represent you at the hearing. You do not have to be represented by an attorney.

### **Does the UIAB provide or recommend attorneys?**

The Board does not provide or recommend attorneys, but it does maintain a list of attorneys and other persons and organizations that represent claimants. This list can be accessed using the link below. Claimants may be charged a fee for the services provided by an attorney or other representative, but only if the decision goes in the claimant's favor and only after the Board approves the fee. The list also includes organizations that provide legal services for free.

If you obtain an attorney or other representative, make sure to provide the name, address, and telephone number of the attorney or representative to the hearing office before the hearing.

- [List of Attorneys and Authorized Agents \(English\)](#)
- [List of Attorneys and Authorized Agents \(Spanish\)](#)
- [LawHelp New York](#)

### **What is the hearing file?**

The hearing file contains documents used by the Department of Labor in reaching its determination. These documents may include Department of Labor forms, questionnaires or written statements completed by the claimant or the employer and/or summaries of telephone interviews prepared by a Department of Labor representative. The hearing file may also contain documents sent in by the claimant or the employer prior to the hearing. Nothing in the hearing file may be used by the ALJ in the decision unless it is introduced as evidence at the hearing. If you would like a document to be considered as evidence, you must make a request to the ALJ.

**Reviewing the case file in advance of your hearing.**

All hearings are currently held by telephone. You will receive a copy of the entire hearing file in the mail with your hearing notice. If the copy of the file did not come with the hearing notice, immediately call the hearing location at the phone number listed on top of the hearing notice and a new copy will be sent to you. You should have a copy of your case file if you meet with an attorney or representative.

The documents in the file will have page numbers, usually in the lower right-hand corner. Keep the documents in the same order they were in when you received the packet. This will allow you to find a document quickly during the hearing.

Make sure you have the file with you at the hearing.

**If you have a witness, arrange for them to appear.**

It is important that you speak with any witnesses that can help your case and arrange for them to be available by phone at the time of your hearing. Be prepared to provide the ALJ with the witness's telephone number. Let your witness know that the ALJ may not call them at the beginning of the hearing, so they should remain available to be called at any point during the hearing. The hearing may take as long as an hour or more. If your witness is only available for a limited period of time, make sure to tell the ALJ at the beginning of the hearing.

**What if I cannot get the witnesses or documents that I need, or I have a witness who is not available on the day of the hearing?**

Be prepared to testify and present the rest of your evidence at the hearing. Explain to the ALJ who the witness is or what the documents are, why the witness is not available that day, and why you believe the witness or document is necessary. If the ALJ decides that the missing evidence is necessary, the hearing can be adjourned (postponed) and rescheduled to a later date, or it can be closed with the right to apply to reopen. If necessary, the ALJ may also issue a subpoena to help you get the document or witness.

**Can I send documents that help my case to the judge before the hearing?**

You should mail or fax documents which you believe are important to your case to the address or fax number at the top of the Notice of Hearing. The documents should arrive at the hearing office at least three days before the date of the hearing. Be sure to include your name and your ALJ case number. You must also mail or fax the documents to the other party at the same time. If you are unable to send the documents in advance, be prepared to explain to the ALJ why you could not send the documents. The ALJ may ask if you can email or fax the documents to the ALJ and to the other party during the hearing.

**Can I submit witness statements?**

Yes, you can submit witness statements; however, witness statements are considered hearsay testimony. Firsthand witnesses (witnesses who actually saw or heard the events that are at issue in the hearing) are more important than documents describing what happened or witnesses who can only repeat what they were told by another person.

**Can I submit text messages or play a video or audio recording that is important to my case?**

Yes. Print the text messages before the hearing, then mail or fax the messages to the ALJ and to the other party before the hearing.

If you want the ALJ to consider a video or audio recording, you must make copies for the ALJ and other parties. The hearing notice will include a list of the formats that may be used.

**Can I request that the other party produce evidence prior to the hearing?**

No. You cannot request that the other party provide evidence before the hearing. You have the opportunity to review the case file, which contains any documents previously submitted to the Department of Labor and any documents upon which the Department relied on to make its determination. If you believe the other party has other documents that may be necessary for you to prove your case, contact the hearing office and let them know the documents you wish to have produced and why they are necessary. The ALJ will address the request at the hearing.

**What is a subpoena?**

A subpoena is a legal paper that orders a witness to come to the hearing or orders a company or an individual to send documents to the ALJ for the hearing.

**How do I request a subpoena?**

If you have an attorney, the attorney may issue the subpoena on your behalf. If you do not have an attorney, you may contact the hearing office by fax or mail as indicated on the top of your hearing notice if you believe you need a subpoena.

Be sure to include your name, case number, and the name and address of the person or the company whose records that you want to have subpoenaed, why you cannot bring the witness or evidence on your own, and what you believe the witness or evidence would prove. Your request may be granted at the time of the request and the subpoena issued at that point, or you may be told to make your request directly to the ALJ who will decide during the hearing whether to issue a subpoena.

### **What happens if the subpoenaed witness does not appear or the subpoenaed documents are not provided?**

The ALJ will consider whether there should be another adjournment or whether the case will be decided on the rest of the evidence.

### **May I listen to the recording of a prior hearing that I did not attend?**

You have the right to listen to recordings of any previous hearings. You can request a CD of the hearing recording by calling the hearing office at the telephone number shown at the top of the notice of hearing. The cost of the CD is \$10. If you cannot afford to pay the \$10 you must sign a form indicating that you are unable to pay for the CD.

### **More Preparation Information**

Our website includes links to the Unemployment Insurance law and other legal resources. Also, there is a link to a searchable database of [Appeal Board decisions](#) going back to 2008. You may reference these decisions to the ALJ in your closing statement to support your case.

## **At the Hearing**

### **What happens at the hearing?**

During the hearing the ALJ will:

- Make an opening statement identifying all persons participating in the hearing, describing how the hearing will proceed and outlining the issues and the rights of the parties.
- Question parties and obtain the necessary facts.
- Allow parties to ask questions of their own witnesses and the witnesses for the other party. The ALJ will also help parties who have a hard time asking questions of witnesses.
- Decide whether documents may be made part of the record.
- Give parties the opportunity to review and object to documents that may be made part of the record.
- Decide on any requests to issue subpoenas for witnesses, documents or records.
- Allow parties to use documents from the case file in presenting their case.
- Give parties an opportunity to make a statement at the end of the hearing.



**When will the ALJ call me?**

The ALJ will call you at the time listed on the Notice of Hearing. Make sure you are in a quiet place to take the call, where you will not be interrupted. You will not be allowed to participate in the hearing if you are driving your car. If you are in your car, you should find a place to park before the hearing starts.

**What if I do not answer the phone?**

You must be ready to answer your telephone when the ALJ calls. The call from the ALJ will appear as an unknown or unlisted number, so make sure to unblock unknown and unlisted numbers on your phone before the hearing. If you do not answer the telephone call, the ALJ will leave a message and attempt to call back within 2 to 5 minutes.

If you do not answer either the first or second call and you requested the hearing, a default or non-appearance decision will be issued. If you did not request the hearing, the hearing will go forward with only the party who made the request and a decision will be issued.

**What if I did not receive a call from the ALJ for my hearing?**

Call the hearing office listed on the top the hearing notice within the first 15 minutes of the time of the hearing.

**How long does a hearing take?**

Generally, hearings take from 45 to 90 minutes. If there are multiple issues to be addressed in the hearing, it may be scheduled for a longer time frame. However, a hearing will last as long as it takes the Judge to get the necessary evidence to decide the case. Some hearings will not be finished during the scheduled time frame and will have to be adjourned (continued on another day).

**Can I record the hearing?**

No. The hearing will be recorded by the UI Appeal Board. If the decision of the ALJ is appealed, you may request a transcript free of charge. If the decision of the ALJ is not appealed, you may request a copy of the hearing recording or a transcript for a fee.

**Can I submit a post-hearing brief?**

Post-hearing briefs are not accepted. You and/or your representative or attorney should present all of your evidence and legal arguments at the hearing.

## **Postpone a Hearing**

### **Can I adjourn (postpone) a hearing?**

It is very important that you participate in your scheduled hearing. If you cannot participate in your hearing, contact the office listed on the top of the Notice of Hearing as soon as possible to explain why you cannot participate. Based on the reason(s) you give for not participating in the hearing, the judge will decide if you can be excused from the hearing and whether or not the hearing will be adjourned (postponed). Any correspondence related to your case should include the ALJ Case Number listed on the Notice of Hearing. Personnel at the Hearing office will tell you whether your request for a postponement is granted.

The hearing will go forward so long as the party who requested the hearing appears, even if the non-requesting party does not appear. The ALJ will issue a decision based solely on the testimony and any documents offered by the appearing party.

If you did not participate in the hearing and the decision is not in your favor, you may apply to reopen the case. Applications to reopen will only be granted if you show that you had a good reason for not participating in the hearing and you apply to reopen the hearing within a reasonable time.

### **What are some reasons that a hearing will be postponed?**

A hearing could be postponed at the request of a party before the hearing for a variety of good reasons. Examples include a party or a party's representative or attorney has another legal proceeding at the same time, or the claimant or the employer's necessary witness has jury duty, or military duty of short duration (for example, a short National Guard duty).

### **What if I do not get an answer to my Adjournment (postponement) request?**

Call the hearing office before the day of the hearing to follow up on your request. If you have not received an answer by the time of your scheduled hearing, you should be ready to participate in the hearing.

### **How long does it take for a postponed case to be rescheduled?**

Generally, an adjourned hearing can be placed back on the schedule within two to three weeks. It may take longer if the ALJ has issued a subpoena for records.

### **What if I need an adjournment (postponement) because I have not found an attorney or other representative?**

You should let the ALJ know that you have tried to find an attorney or representative with no success. The ALJ may grant you permission to reopen the case once you have found an attorney or representative.

## **What if I miss a hearing?**

### **1) I requested the hearing**

The party requesting the hearing must appear by telephone for the hearing to go forward. If you requested the hearing and do not appear, a decision for non-appearance will be issued. This means that the hearing is closed, and the Department of Labor Determination remains in effect.

If you still wish to have a hearing after missing the hearing that was scheduled and the case was closed, you must apply to reopen the case. Fax or mail your request to reopen your case to the address or fax number on the front of the decision as soon as you are ready to appear at a new hearing. Your request should include the case number and the reason you did not participate in the hearing. Attach any documentation that supports why you did not participate in the hearing. List any dates in the next 45 days on which you are **not** available for a hearing. We will do our best to schedule the next hearing on a day and time you can participate.

Applications to reopen will only be granted by the ALJ if you show that you had a good reason for your failure to appear at the earlier hearing and if you requested the reopening within a reasonable time.

What is considered a “reasonable time” will depend on the circumstances. You should take steps immediately to solve the problem that caused you to miss the hearing. For example, if you wanted to find an attorney, start looking for an attorney right away. If you needed to obtain documents (telephone records, for example), send your request to your telephone company right away. The ALJ may ask you to explain what you did to solve the problem after you missed the hearing.

### **2) The other party requested the hearing**

The hearing will go forward so long as the party who requested the hearing appears by telephone, even if the non-requesting party does not appear. The ALJ will issue a decision based solely on the testimony and any documents offered by the appearing party.

If the decision is not in your favor and you wish to challenge it, you may apply to reopen the case. Applications to reopen will only be granted if you show that you had a good reason for not participating in the hearing and you apply to reopen the hearing within a reasonable time.

What is considered a “reasonable time” will depend on the circumstances. You should take steps immediately to solve the problem that caused you to miss the hearing. For example, if you wanted to find an attorney, start looking for an attorney right away. If you needed to obtain documents (telephone records, for example), send your request to your

telephone company right away. The ALJ will ask you to explain what you did to solve the problem you missed the hearing.

Before your reopened hearing, review your case file and listen to recordings of any previous hearings by sending a request for a CD recording to the Hearing Site. If you have financial difficulty, you may fill out a waiver and request a free recording. If you are looking for legal representation, it is important to have a copy of your case file ready so that an attorney can review it.

### **How many times can a party apply to reopen?**

Any party that does not appear for an unemployment insurance hearing after receiving notification may request a reopening and another hearing will be scheduled. If you fail either to appear or proceed at a second hearing, any further request for reopening must be made to the Appeal Board. The Board will grant another hearing only if it determines that your failure to appear at both prior hearings may be for good cause.

## **After the Hearing**

### **What happens after the hearing?**

Shortly after the hearing, the ALJ will issue a written decision based on the testimony and any exhibits (documents, videos, or items) that were made part of the record during the hearing. The decision will include the facts that the ALJ found to be true, and the reason for sustaining or overruling each determination, based on the law. If you do not understand the decision, immediately call the hearing location at the phone number listed on the top of the hearing notice and ask for an explanation. Claimants may call the Claimant Advocate Office toll free at 855-528-5618.

### **How soon after the hearing will I receive the ALJ's decision?**

The decision will be mailed to you as soon after the hearing as possible. If you do not receive a decision within two weeks, contact the hearing office where you had your hearing (the phone number is at the top of the notice of hearing).

### **May I submit additional evidence or a written statement after the hearing?**

No. The ALJ will make a decision based only on the testimony and exhibits taken at the hearing. You must submit all your evidence before the hearing is closed. You may state why you believe the decision should be in your favor during your closing statement at the hearing.

**Is the case over if the ALJ's decision is in my favor?**

Not always. If the other party appeared at the hearing and disagrees with the ALJ's decision they can appeal to the Appeal Board. The Commissioner of Labor may also appeal to the Appeal Board, even if there was no representative of the Commissioner at the hearing. If the other party did not appear, the other party may request to reopen the case which may lead to a new hearing.

**What if I don't agree with the ALJ's decision?**

If you were at the hearing and lost all or part of the case, you may file an appeal to the Appeal Board. The decision will contain instructions on how to file an appeal. An appeal must be postmarked or faxed no later than 20 days after the date printed or stamped on the front of the ALJ decision.

The appeal must be in writing. Send a letter to the Appeal Board at PO Box 15126, Albany, NY 12212-5126, or by fax to 518-402-6208. Be sure to include your ALJ Case number in your appeal request.

One or more of the five Board members will review the facts that led to the decision of the hearing ALJ and issue a decision. This is a written process. No further hearings will be scheduled unless the Board decides an additional hearing is necessary.

**What happens after an appeal to the Board is requested?**

Once a request for an appeal has been submitted either by you or another party, all parties will be sent a notice of receipt of appeal with instructions about how to request a copy of the transcript of the hearing and how to submit a statement.

**How do I request a transcript of a hearing if I request an appeal because I disagree with the hearing ALJ decision? How will I receive it?**

If you disagree with the ALJ hearing decision and have requested an appeal to the Board, you must request a transcript of the hearing within seven days of the date on the Notice of Receipt of Appeal. You can request a CD or email of the transcript which you will receive free of charge. We can email you a copy of the transcript by secure (encrypted) email if you provide your email address when you request a copy of the transcript.

To request a transcript of your hearing after you have appealed the ALJ hearing decision to the Appeal Board submit your request in writing to:

Unemployment Insurance Appeal Board  
PO Box 15126  
Albany, New York 12212-5131  
or Fax: 518-402-6208

If you are unable to open the email or the CD, contact the Appeal Board for assistance.

**How to I request a transcript of my hearing if I do not want to appeal the ALJ hearing decision?**

If your hearing has been completed and you do not want to appeal the ALJ hearing decision but still want a copy of your hearing transcript, request a copy of the transcript in writing and include your name, address, telephone number, signature, the case number, and the date or dates of each hearing along with a deposit of \$75 payable to the Department of Labor to the address below. The deposit is non-refundable and will be deducted from the total cost of the transcript.

Unemployment Insurance Appeal Board  
Attention: Transcripts  
PO Box 29002  
Brooklyn, New York 11202-9002

Or call (833) 910-4382 for fee information and further instructions.

The Appeal Board must order transcripts from an outside vendor. The cost is \$2.70 per page. The transcription cost is what the Appeal Board must pay to have your recording transcribed. Depending on the length of your hearing the cost of the transcript may increase. It is best to call the number above to learn more about the costs.

If you are a Third Party such as an attorney and want to request a transcript of someone else's hearing, then please call (833) 910-4382 for more information.

**Can I submit a statement without requesting the transcript?**

Yes. You may submit a written statement within seven days of the date on the Notice of Receipt of Appeal.

**Can I testify again or add anything to the case?**

Most of the time the Appeal Board Member(s) will decide the case based on the record from the ALJ's hearing without holding any more hearings. Whenever a Board Member decides that another hearing is necessary, a hearing notice will be sent to you. New information submitted by a party on appeal will be considered only if a hearing is ordered by the Board.

**Do I have to submit a written statement?**

You don't have to submit a statement, but you should send one if you want the Appeal Board Member to know exactly why you agree or disagree with the ALJ's decision. Two copies of the statement must be sent to the Appeal Board. If the statement is submitted by an attorney, the attorney must provide copies of the statement to the opposing parties and any opposing attorney.

**How much time does it take for the Board to rule on an appeal?**

It will depend upon the time it takes for a thorough review of the case by the Board. If you have not received a decision within three months, call the Board for information.

**What if I do not agree with the Appeal Board's decision?**

Within thirty days from the date of the decision by an Appeal Board Member, a party can appeal to the Appellate Division of the State Supreme Court, Third Department. The instructions will appear on the Board's decision. It is not possible to estimate how soon the Court will decide your case. Please refer to the instructions on the "Notice of Receipt of Appeal to Court" that is sent to you after you appeal to Court.

A party may also apply to the Board within the same time frame for a reopening and reconsideration of the Board's decision.

## **Information for Attorneys and Representatives**

**Are the rules of evidence the same in unemployment insurance hearings as they are in other courts?**

No. The technical rules of evidence that apply in civil and criminal cases do not apply to administrative hearings. For example, hearsay evidence may be considered although it generally will not count as heavily as firsthand testimony.

**Can an unemployment insurance matter be settled between the employer and claimant prior to having a hearing?**

No. A claimant cannot give away his or her right to unemployment insurance benefits under the Labor Law.

**Can I charge a fee for representing a claimant?**

Only an attorney licensed in New York or a representative registered with the Unemployment Insurance Appeal Board may charge and receive a fee. The Appeal Board's regulations governing attorneys and registered representatives, including when and how they may receive a fee, is on our website, located in the [Appeal Board Rules](#) (Section 460.6).

For additional information, please refer to the document [What Lawyers or Representatives Can Charge Claimants](#) located in the Guides and Resources page.

### **How do I apply for fee approval after representing a claimant?**

Attorneys and registered representatives appearing on a fee basis must apply to the board for approval of such fees in accordance with procedures set forth below.

Each application for a fee approval shall consist of the following:

- a copy of the fully executed retainer agreement;
- a copy of the itemized bill;
- a statement identifying additional factors to be considered by the board in reviewing such application; and
- a signed certification, on a form provided by the Board ([Certification of Services](#)), attesting to the accuracy of the itemized bill; that benefits were allowed in a final decision in connection with said representation; and that copies of the itemized bill, retainer agreement and any statement of additional factors have been given to the claimant.

Applications must be submitted to the Appeal Board at PO Box 15126, Albany, NY 12212-5126, or by fax to 518-402-6208, or by email to [feerequest@labor.ny.gov](mailto:feerequest@labor.ny.gov).

### **Does the approved fee request come directly out of the claimant's unemployment benefits?**

No. The approved fee amount is paid by the claimant directly.

### **How do I become a registered representative?**

Non-attorneys must submit an application to become a registered representative. The application and any supporting documentation are reviewed by the Chief Administrative Law Judge. If the basic requirements have been met, an interview is conducted. Upon approval by the Chief Judge, and after receipt of a surety bond, the applicant is listed as a Registered Representative and is eligible to assist claimants with Unemployment Insurance cases.